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11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

No. CR 2:23-564-MWF-2

14 Plaintiff,

GOVERNMENT'S OPPOSITION TO  
DEFENDANT ARIAN ALANI'S MOTION  
FOR BAIL REVIEW

15 v.

16 ERICK OVED ESTRADA, ET AL.,

17 **ARIAN ALANI (#2),**

18 Defendant.

19

20 Plaintiff United States of America, by and through its counsel  
21 of record, the United States Attorney for the Central District of  
22 California and Assistant United States Attorney MiRi Song, hereby  
23 files its Opposition to defendant Arian Alani's Motion for Bail  
24 Review, and respectfully urges the Court to uphold the detention  
25 order repeatedly imposed in this matter by the Honorable Rozella A.  
Oliver.

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1        This Opposition is based upon the attached memorandum of points  
2 and authorities, the files and records in this case, and such  
3 further evidence and argument as the Court may permit.

4 DATED: March 22, 2024

E. MARTIN ESTRADA  
United States Attorney

6                    MACK E. JENKINS  
7                    Assistant United States Attorney  
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8                    */s/ MiRi Song*  
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10                  Assistant United States Attorney  
11                  Attorneys for Plaintiff  
UNITED STATES OF AMERICA

1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                   **I. INTRODUCTION**

3                   Detention was the correct call all three times. It remains the  
4 correct call now. The Honorable Rozella A. Oliver, United States  
5 Magistrate Judge, repeatedly considered the merits for bail for  
6 defendant and found them lacking for good reasons. This is a  
7 presumption case where someone was killed because of defendant's  
8 actions. Despite his semantic acrobatics, changing narratives, and  
9 spin, defendant is an unremorseful drug dealer who purchased  
10 fentanyl pills from co-defendant Erick Oved Estrada ("E. ESTRADA")  
11 and then sold them to the victim as real oxycodone pills. The  
12 victim ultimately paid with his life and died in a mall parking lot  
13 from fentanyl poisoning. Defendant did not need medical  
14 confirmation before knowing exactly why the victim died. Defendant  
15 immediately texted E. ESTRADA that defendant's "boy just died  
16 yesterday" and that E. ESTRADA should not be "selling shit with  
17 fentanyl." Defendant flushed the rest of the pills down the toilet  
18 to spare himself the same fate.

19                  Despite all this and despite his claims that he is still  
20 grieving the loss of a dear friend, defendant continued to possess  
21 and distribute drugs after the victim's death. As evidenced by the  
22 drugs, digital scale, baggies, and other indicia of use and  
23 distribution found in both defendant's residence (which he shared  
24 with his proposed surety, Cedric Cid) and person on two separate  
25 dates after the victim's death, defendant continued to use and deal  
26 drugs both at his house and at parties with "friends." These are  
27 not the actions of someone who is aggrieved or remorseful. Genuine  
28 grief is what is etched heavy on the victim's family's faces every

1 time they show up to these bond reconsideration hearings, knowing  
2 that they will never get their son or brother back but showing up  
3 anyway because their love is stronger than their grief.

4 On top of the glaring danger that defendant poses to himself  
5 and the community, defendant poses a risk of nonappearance.  
6 Defendant is a citizen of Denmark with a history of, and the means  
7 for, international travel. This is concerning in light of  
8 defendant's compelling incentive to flee a potential 20-year  
9 mandatory minimum sentence. Defendant has been in custody for less  
10 than four months before petitioning the Court for bail two times  
11 beyond his first request at his initial appearance. He will not  
12 dawdle here for the possibility of 240 months more if given the  
13 chance. As Magistrate Judge Oliver recognized, bail is not  
14 appropriate here because the risks of nonappearance and danger to  
15 the community cannot be bought with a cash bond and mitigated with  
16 unsuitable sureties, promises that defendant will be law abiding  
17 from now on, restrictions against travel, and other offered  
18 conditions. Magistrate Judge Oliver's decisions ordering detention  
19 should therefore be upheld.

20 **II. PROCEDURAL HISTORY**

21 On November 15, 2023, defendant was indicted for Conspiracy to  
22 Distribute Controlled Substances, in violation of 21 U.S.C. § 846,  
23 and Distribution of Fentanyl Resulting in Death, in violation of 21  
24 U.S.C. §§ 841(a)(1), (b)(1)(C). (ECF No. 1.) A week later,  
25 defendant was arrested and made his initial appearance on November  
26 22, 2023, at which time he was ordered detained. (ECF No. 33.) On  
27 December 15, 2023, defendant applied for a review of the order of  
28 detention. (ECF No. 77.) On December 20, 2023, Magistrate Judge

1 Oliver held a hearing and ordered defendant permanently detained.  
2 (ECF No. 82.) Defendant applied again for reconsideration of his  
3 detention order, and proposed the following sureties and conditions  
4 of release:

- 5 • Two sureties (Cedric Cid and Virginia Cid);
- 6 • \$300,000 bond secured by \$20,000 in cash;
- 7 • Enrollment in residential drug treatment facility;
- 8 • Drug testing and mental health evaluation;
- 9 • Location monitoring with curfew;
- 10 • Travel restricted to this district;
- 11 • Surrender of travel documents; and
- 12 • Others the Court deems appropriate.

13 (ECF No. 115.) One of the proposed sureties, Virginia Cid,  
14 reconsidered her offer to serve as a surety and was replaced with  
15 defendant's father, Amir Alani, at the last minute. Magistrate  
16 Judge Oliver continued to order defendant detained on the grounds  
17 that he posed unmitigable risks of nonappearance and danger to the  
18 community.

19 Defendant now appeals this order to this Court, and no new  
20 material conditions or terms of release that was not already offered  
21 to Magistrate Judge Oliver is being offered now.

22 **III. RELEVANT STATEMENT OF FACTS**

23 On June 9, 2022, defendant met with the victim at a mall and  
24 sold the victim fake oxycodone pills that contained fentanyl. (ECF  
25 NO. 1, Indictment, p. 7.) The victim died shortly after this  
26 meeting in the mall parking lot. Id. Defendant knew that the pills  
27 he provided the victim was responsible for the victim's death, for  
28 the next day on June 10, 2022, defendant texted his supplier, E.

1 Estrada, "[m]y boy just died yesterday," and scolded E. Estrada that  
2 he "[s]houldn't be selling shit with fentanyl." Id.

3 Prior to the indictment in this case and after the victim's  
4 death, a search warrant was executed in the residence where  
5 defendant was living with his partner and proposed surety, Cedric  
6 Cid. Officers found several indicia of drug dealing and controlled  
7 substances. At a later date, when defendant was arrested for this  
8 matter on November 22, 2023, he was under the influence and found  
9 with a bag on his person containing baggies, a digital scale,  
10 ketamine, methamphetamine, and cocaine. Defendant claimed that he  
11 as coming back home from a party with friends.

12 **IV. ARGUMENT**

13       A. Standard of Review

14       This Court's review of the detention order is de novo. United  
15 States v. Koenig, 912 F.2d 1190, 1192 (9th Cir. 1990). The  
16 "district court is not required to start over . . . and proceed as  
17 if the magistrate's decision and findings did not exist," but the  
18 district court also "should review the evidence before the  
19 magistrate and make its own independent determination. . . ." Id.  
20 at 1193.

21       B. Applicable Law

22       Detention is appropriate where a defendant is either a danger  
23 to the community or a risk of nonappearance; it is not necessary to  
24 prove both. 18 U.S.C. § 3142(e)(1); United States v. Motamedi, 767  
25 F.2d 1403, 1406 (9th Cir. 1985) (Kennedy, J.). "[T]he government  
26 bears the burden of showing by a preponderance of the evidence that  
27 the defendant poses a flight risk, and by clear and convincing  
28 evidence that the defendant poses a danger to the community."

1       United States v. Gebro, 948 F.2d 1118, 1121 (9th Cir. 1991) (per  
 2 curiam).

3       Here, there is a presumption that defendant is both a danger  
 4 and a flight risk due to the seriousness of his crime, which has a  
 5 maximum penalty of life imprisonment and a mandatory minimum of 20  
 6 years. 18 U.S.C. § 3142(e)(2)(A). “[O]nce the defendant offers  
 7 some rebuttal evidence, the presumption of flight or danger does not  
 8 burst or disappear.” United States v. Ward, 63 F. Supp. 2d 1203,  
 9 1209 (C.D. Cal. 1999) (collecting cases); see also United States v.  
 10 Jessup, 757 F.2d 378, 382 (1st Cir. 1985) (Breyer, J.), abrogated on  
 11 other grounds by United States v. O'Brien, 895 F.2d 810 (1st Cir.  
 12 1990). Rather, Congress intended that the statutory presumptions  
 13 would have a practical effect. Jessup, 757 F.2d at 382. Thus, the  
 14 presumption “remains in the case as an evidentiary finding  
 15 militating against release, to be weighed along with other evidence  
 16 relevant to factors listed in § 3142(g).” United States v. Hir, 517  
 17 F.3d 1081, 1086 (9th Cir. 2008) (quoting United States v. Dominguez,  
 18 783 F.2d 702, 707 (7th Cir. 1986)).

19       If a defendant proffers evidence to rebut the presumption, the  
 20 court then also considers: “the nature and circumstances of the  
 21 offense charged”; “the weight of the evidence”; the defendant’s  
 22 “history and characteristics”; and “the nature and seriousness of  
 23 the danger to any person or the community” posed by the defendant’s  
 24 release. 18 U.S.C. § 3142(g); Hir, 517 F.3d at 1086. The weight of  
 25 the evidence is the least important of these factors. United States  
 26 v. Winsor, 785 F.2d 755, 757 (9th Cir. 1986) (per curiam). However,  
 27 evidence of guilt is relevant to the likelihood that a defendant  
 28 will flee or pose a danger to the community. Id.

1           C. Defendant Poses an Unacceptably High Risk of Nonappearance

2           Defendant is a foreign national, specifically a citizen of  
3 Denmark, with ties outside of this country. Defendant's history of  
4 international travel shows that he also has the means to leave this  
5 country and avoid prosecution for charges that carry a mandatory  
6 minimum sentence of 20 years.

7           The substantive conditions proposed to mitigate this risk are  
8 insufficient, and indeed the government submits that there are no  
9 conditions available that would lower the risk to a level acceptable  
10 for bail for the following reasons:

- 11          • \$300,000 cash bond is insufficient. Money cannot buy away risk  
12           of nonappearance, especially when the potential custodial  
13           sentence is so high. As other similarly situated defendants  
14           have realized, what is money compared to one's life? Money may  
15           be made again, but years lost can never be regained. It cannot  
16           be lost on defendant that if he were to receive the mandatory  
17           minimum sentence in this case, he would go in as a young man  
18           and come out a much older one.
- 19          • The proposed sureties are also unsuitable. Drugs and indicia  
20           of distribution were found in defendant's shared residence with  
21           Mr. Cid. Defendant's drug dealing happened right under Mr.  
22           Cid's nose, and Mr. Cid is now in worse physical condition due  
23           to his heart and cannot provide the kind of oversight needed.  
24           Additionally, the \$50,000 appearance bond by Mr. Amir Alani may  
25           exceed his annual income. As Pretrial Services has pointed out  
26           in other cases, a surety should not be allowed to sign up for  
27           an amount that may exceed the amount the surety actually has  
28           available.

- 1     • Location monitoring or even home confinement does not reveal  
2         what defendant is doing at various locations. On the date of  
3         the victim's death, location monitoring would merely have shown  
4         Pretrial Services that defendant was at home and at the mall.  
5         This would not have raised red flags to spur action. It would  
6         not have prevented a young man's untimely death.
- 7     • Taking away travel documents and restricting travel to this  
8         district are not effective conditions that would ensure  
9         defendant's presence in this district. Defendants with similar  
10        conditions have been able to travel to Mexico without a  
11        passport and then leave to other countries, including non-  
12        extraditing countries like China.

13    Defendant's risk of nonappearance is high and cannot be sufficiently  
14    mitigated with the proposed and available conditions of bail.

15                  D. Defendant Is a Danger to the Community and No Condition  
16                  Can Adequately Mitigate This Danger

17    Defendant's actions led to the death of someone he claims was  
18    his friend. Defendant bought pills of unverified origin from an  
19    unknown source and then sold them to the victim as prescription  
20    oxycodone pills. On the day of defendant's arrest for this case,  
21    defendant was under the influence and found with ketamine, cocaine,  
22    and methamphetamine. Defendant also had a used digital scale with  
23    white powdery residue and baggies. Thus, after his friend died from  
24    drugs he gave him, defendant was peddling more dangerous drugs to  
25    other "friends." Defendant is a danger to himself and the  
26    community. Drug testing, mental evaluation, and even a residential  
27    treatment facility cannot ensure that the danger to the defendant  
28    and the community are adequately addressed. Indeed, similarly

1 situated defendants have been able to walk out of residential  
2 treatment facilities, and there is nothing the facilities can do to  
3 stop them.

4 In addition, defendant's narrative on his drug use and how that  
5 is tied to the instant crimes keeps changing, which should raise red  
6 flags for this Court. Initially, defendant stated that he was only  
7 a recreational user and that it was part of his "lifestyle," but  
8 that he was otherwise a functional adult who was working toward a  
9 master's degree at UCLA. Defendant then changed his story to say  
10 that he is a hopeless addict engaging in self-destructive behavior,  
11 but that he is clean now after a "self-imposed detox." The "self-  
12 imposed detox" that defendant speaks of is prison. This Court  
13 should not be fooled. Defendant is a threat to himself and the  
14 community. He should remain in detention.

15 **III. CONCLUSION**

16 Defendant is a drug dealer, and a victim died of fentanyl  
17 poisoning as a result. Defendant is dangerous and releasing him on  
18 bail pending trial is giving him a chance to flee. The danger and  
19 flight risk levels are unacceptably high, and no condition or  
20 combination of conditions can make them palatable enough for  
21 release. Magistrate Judge Oliver's order of detention should  
22 therefore be upheld.

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